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July 20, 1942

Mr. Neri Osborn, Jr.,
Estate Tax Collector
State House
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Sir:

We have your letter of July 17th, enclosing a letter from Fennemore, Craig, Allen & Bledsoe in reference to the estate of Robert A. Craig, deceased. In your letter you ask for our opinion as to whether the estate of Robert A. Craig owes an inheritance tax to the State of Arizona under the facts as set forth in the enclosed letter.

It appears from the letter submitted that Robert A. Craig was a resident of California at the time of his death, and the estate of Robert A. Craig is now being probated in California. The only asset of the estate which might be taxable under the laws of Arizona is a promissory note executed by Herbert L. Stevenson and payable to Robert A. Craig in California. The note is secured by a pledge of certificates of the capital stock of certain Arizona corporations, which stock is owned by Herbert L. Stevenson, a resident of Arizona. It further appears from the letter that the stock certificates are kept in Arizona in a safety deposit box jointly controlled by Herbert L. Stevenson and an agent appointed by Robert A. Craig.

Under the facts above stated we are of the opinion that the State of Arizona may not collect an inheritance tax on said note or said certificates of stock. The debt, as evidenced by the note has its taxable situs at the domicile of the deceased which was in California. The stock certificates were not owned by the deceased at the time of his death, he only had a lien upon them to secure the payment of the note.

Inasmuch as the deceased did not own the stock at the time of his death, but merely held it as security, the rule announced in Tax Commission of Utah v. Aldrich, 62 U.S. Supreme Ct. 1008 does not apply.

We return herewith the letter from Fennemore, Craig, Allen & Bledsoe.

Very truly yours,

JOE CONWAY,
Attorney General

EARL ANDERSON
Special Assistant
Attorney General